IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 4635 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE P.B.MAJMUDAR

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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CHANDRASHEKAR GANPATRAO BHACHEKAR
Versus
STATE OF GUJARAT AND OTHERS

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Appearance :
MR AMRISH PANDYA for MS KRISHNA U MISHRA for Petitioner.
RULE SERVED for Respondent Nos. 1 - 2.
MR ND GOHIL, AGP for Respondent No. 3.

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CORAM : HONOURABLE MR.JUSTICE P.B.MAJMUDAR

Date : 05/07/2006

ORAL JUDGMENT

By filing this petition, the petitioner has challenged his detention order dated 10-1-2004, by which the petitioner is ordered to be detained as a “land grabber” under Gujarat Prevention of Anti Social Activities Act [hereinafter referred to as “PASA” for short].

It is stated by learned AGP, Mr.Gohil that even though the order of detention is dated 10-1-2004, the petitioner could be detained only on 25-1-2006 as he was absconding.

With the order of detention, the petitioner is also served with the grounds of detention. In the grounds of detention, there is a reference to seven criminal cases pending against the petitioner. All these cases are in connection with offences under Sections 166, 387, 504, 506 (2), 143 and 114 of the Indian Penal Code as well as under the provisions of Prevention of Atrocities Act. It is alleged that the petitioner, along with his associates, has tried to grab the land of Adivasis.

Mr.Amrish Pandya, learned advocate for the petitioner submitted that the petitioner is an employee of one Kabhai Chauhan, who is the main accused in all these cases. He further submitted that the order of detention of said Kabhai Chauhan is revoked by the State Government.

In my view, that fact is not relevant, as every detention order is required to be considered on its own merits.

Mr.Amrish Pandya, learned advocate for the petitioner further submitted that some of the documents supplied to the petitioner along with the order of detention are not legible and, therefore, the petitioner could not make effective representation against his detention order. He submitted that such documents are page Nos.7, 14, 75, 76, 77, 80, 92, 93, 94, 95, 146, 173 and 178 of the compilation. He further submitted that appropriate averment is in this regard has been made in Ground - (m) of the petition memo. He further submitted that since legible copy of some of the documents was not supplied to the petitioner, order of detention passed against the petitioner is required to be quashed and set

aside. In this connection, learned advocate for the petitioner has relied upon the decision of this Court in **Asif Abdul Karim Bidiwala Vs. Union of India**, reported in **2005 (2) GLH 105**. In the aforesaid case, learned Single Judge of this Court has held that if documents are partly illegible then it cannot be said that they are legible documents and if legible documents are not supplied, order of detention is required to be quashed and set aside, as safeguard provided under Articles 21 and 22 (5) of the Constitution of India is breached.

Per see all the aforesaid documents are not legible at all and learned AGP, Mr.Gohil also submitted that it is difficult to read aforesaid documents.

In the instant case, it is not in dispute that aforesaid documents are not legible. Therefore, on this ground order of detention of the present petitioner is required to be quashed and set aside, as the petitioner is denied his right to make effective representation against his detention order for the want of legible documents.

For the foregoing reasons, this petition is allowed. Order of detention dated 10-1-2004 is quashed and set aside. Petitioner – Chandrashekar Ganpatrao Bhachekar is ordered to be released forthwith unless his presence is required in connection with any other case. Rule is made absolute with no order as to costs.

(P.B.MAJMUDAR, J.)

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